

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

United States District Court
Southern District of Texas

ENTERED

June 20, 2017

David J. Bradley, Clerk

WELL TAYLOR, *et al.*,

§

Plaintiffs,

§

VS.

§

AMSPEC, L.L.C., formerly known as
AMSPEC SERVICES, L.L.C.,

§

Defendant.

§

CIVIL ACTION NO. H-14-1730

ORDER

The parties asked for clarification as to whether the “fluctuating workweek method” is the appropriate way to calculate compensation owed in this case. The court has researched the law and examined the undisputed evidence in the record and finds and concludes that as a matter of law the fluctuating workweek method applies. *Hanson v. Camin Cargo Control, Inc.*, No. CIV. A. H-13-0027, 2015 WL 1737394 (S.D. Tex. Apr. 16, 2015) sets out the proper way to calculate the regular rate of pay under the fluctuating workweek method. (See Docket Entry No. 38 at 2). “The regular hourly rate of pay of an employee is determined by dividing his total remuneration for employment (except statutory exclusions) in any workweek by the total number of hours actually worked by him in that workweek for which such compensation was paid.” 29 C.F.R. §778.109. If the plaintiffs received some overtime payment that was erroneously calculated, that amount is deducted from the half-time premium owed in order to determine the final amount of unpaid overtime due. *Hanson*, 2015 WL 1737394, at *8.

SIGNED on June 20, 2017, at Houston, Texas.



Lee H. Rosenthal
Chief United States District Judge